



28 FEB 2006

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In re Application of :  
SONDERGAARD, Jorgen Christian :  
Application No.: 10/541,105 :  
PCT No.: PCT/DK2003/00891 :  
Int. Filing Date: 18 December 2003 :  
Priority Date: 8 January 2003 : **DECISION**  
Attorney Docket No.: HOI-13402/16 :  
For: ELECTRO-THERAPEUTIC DEVICE :  
AND METHOD OF ELECTRO- :  
THERAPEUTIC TREATMENT :

This is a decision on the declaration filed on 19 August 2005 which has been treated as a petition under 37 CFR 1.42. No fee is required.

### **BACKGROUND**

On 30 June 2005, applicant filed papers to enter the national stage of PCT/DK2003/00891 which was accompanied by, *inter alia*, an unexecuted declaration.

On 19 August 2005, applicant filed a declaration executed by the legal representative of the deceased sole inventor, Jorgen Christian Sondergaard).

### **DISCUSSION**

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Birthe Sondergaard executed the declaration as the legal representative of the deceased inventor. However, this declaration does not meet the requirements of 37 CFR 1.497(a) and (b).

The citizenship, residence and address of the legal representative must be recorded on the declaration pursuant to 37 CFR 1.497(b)(2), along with the required information for the deceased inventor. Here, the citizenship, residence and address information is listed once and it is not clear whether this information is for the legal

representative or the deceased inventor. Regardless, this information must be recorded separately on the declaration for each. It is also noted that it is irrelevant whether the citizenship, residence and address information is the same for the deceased inventor and legal representative.

### **CONCLUSION**

For the reason listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b) within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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